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Minutes of the Commission Meeting Held on August 3, 2006 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	- Ned Orleans (A – Tisbury)
P John Best (E – Tisbury)	P Megan Ottens-Sargent (E – Aquinnah)
P John Breckenridge (A – Oak Bluffs)	P Deborah Pigeon (E – Oak Bluffs)
P Christina Brown (E – Edgartown)	P Jim Powell (A – West Tisbury)
P Carlene Condon (A – Edgartown)	P Doug Sederholm (E – Chilmark)
P Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	P Paul Strauss (County Comm. Rep.)
P Chris Murphy (A – Chilmark)	- Andrew Woodruff (E – West Tisbury)
- Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Paul Foley (DRI Coordinator), Srinivas Sattoor (Transportation Planner), Bill Wilcox (Water Resources Planner)

1. EXECUTIVE DIRECTOR'S REPORT

Mark London announced two meetings:

- The second forum on the Island Plan on Wednesday, August 9th at 5:00 at the Tisbury Senior Center to discuss and validate identified goals.
- On August 10th at 3:00 at the Oak Bluffs Library, the Oak Bluffs Selectmen will be holding a meeting for discussion of the blinker intersection.

2. BUSSINK: DRI 383M2-REQUEST FOR MODIFICATION

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon M. Davisson, C. Murphy, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss

For the applicant: Bart Bussink, applicant.

Linda Sibley said the application is a modification of a subdivision approved in 2003.

Bart Bussink explained that the Commission had approved two extensions of the approval. He submitted a letter explaining the request for modification:

- There will be no guesthouses.
- The home site lot has been moved to a better location and is larger.
- There is a no-cut buffer zone and the buffer has been increased.
- Houses are limited to a maximum of 4500 square feet.
- There is a view easement and it is not possible to build on the ridge.

- He explained it was a cooperative effort between himself and the Planning Board.

Doug Sederholm said he had represented an abutter in a suit against the original applicant, but he doesn't feel it's a conflict because there is a new applicant; the new applicant did not feel it was necessary for Doug Sederholm to recuse himself.

Megan Ottens-Sargent asked whether the applicant had addressed Land Bank concerns about increasing the no-cut zone. **Bart Bussink** explained that:

- They widened the buffer zone, and added the no-cut zone. He's not sure if they met the Land Bank concerns.
- They had originally offered to sell 200 feet of land to the Land Bank, which decided it was too low a priority for them. The applicant received a letter from the Land Bank related to the notice of the public hearing.
- There was an issue related to a no-cut zone next to a stone wall, but it didn't make sense to block the view of the stone wall.

Linda Sibley said that the no-cut zone was thoroughly vetted through the approval process and reminded Commissions that their decision is whether the modifications are substantial enough to require a public hearing.

Doug Sederholm asked whether abutters had been notified of the modification. **Bart Bussink** explained that abutters were notified of the Planning Board Public Hearing. There was no comment from any of the abutters.

Carlene Condon said the most substantive drawback of this proposal is the addition of a building lot to a total of five. **Bart Bussink** explained that the fifth lot allows for the pricing of the lots to be lower. The offset is that the number of actual buildings is one lower because of the elimination of the two previously possible guesthouses; the number of families that can occupy the lots is one lower. He noted that there is also now a square footage limit.

Jim Athearn said he's glad to see the change and the cul de sac moved back. The additional lot makes a difference as opposed to guesthouses. The Planning Board has sifted through the modifications and has decided that this is a favorable change. He pointed out that lot lines and driveways have changed but he doesn't feel the need to re-review the plan.

John Breckenridge said the 4500 square feet doesn't include decks, garages, and crawlspaces. He asked whether bedrooms are over garages as living space. **Bart Bussink** said he believes that if the septic system allows for a number of bedrooms, one can be above the garage but it would be included as part of the 4500 square feet.

Chris Murphy said he would feel more comfortable if the 4500 square foot figure were reduced. **Bart Bussink** said they are trying to maintain a balance between marketability and giant houses. He said it might be preferable to have a smaller number but there is a market reality. He said he's perfectly happy to clarify the limit so there isn't a way to cheat around it.

Christina Brown moved and it was duly seconded that the changes are within the intent of the issues discussed at the original public hearing and do not require a public hearing.

- **Paul Strauss** asked if this subdivision plan for five units were to come before a planning board in a town, would it come before the Commission. **Christina Brown**

said any piece of land 15 acres or more being subdivided would come before the Commission. The land was determined to be a DRI years back when Eleanor Pearlson subdivided over 200 acres in that area.

- **Carlene Condon** said she seconded the motion with the understanding that there is an offer by the applicant that the living space is limited to 4500 square feet no matter where it is.

A voice vote was taken. In favor: 11. Opposed: 2. Abstentions: 0. The motion passed.

Christina Brown moved and it was duly seconded to approve the changes proposed on the plan cited and in Bart Bussink's letter with the clarification that the livable, habitable space anywhere on the property will not be greater than 4500 square feet.

- **Carlene Condon** said that would mean that residents could build a large accessory structure.
- **Mimi Davisson** said accessory buildings would be limited by the Planning Board requiring a special permit, except for barns, which are agricultural buildings.
- **Bart Bussink** said that anything over 70 square feet with a door and a window becomes a bedroom and would be overseen by the building inspector.
- Commissioners discussed ways to enforce the 4500 square foot habitable space limit.

A roll call vote was taken. In favor: J. Best, J. Breckenridge, C. Brown, M. Davisson, J. Powell, D. Sederholm, L. Sibley, P. Strauss. Opposed: J. Athearn, C. Condon, C. Murphy, M. Ottens-Sargent, D. Pigeon. Abstentions: None. The motion passed.

Linda Sibley noted that the applicant said that he would confirm in writing that the 4500 square-foot limit on habitable space applied to each entire lot, and that all the original conditions stand.

3. WOODLANDS II: DRI NO. 39M-2 – WRITTEN DECISION

Commissioners Present: J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss

Commissioner Present but Not Voting: M. Crane

Christina Brown reviewed the possible conditions draft of August 3rd, which included the following:

- In addition to the kinds of high traffic generating uses that the applicant offered would not locate in the complex, any business that generates 120 trips or more per day per 1000 square feet based on the ITE numbers would not be acceptable without returning to the Commission for permission.
- The dormant easement would be activated at the discretion of the Tisbury Planning Board.
- The particular landscaping and lighting would be submitted to LUPC for final approval before construction begins.

- Wastewater will be monitored as required by the DEP and overseen by the Tisbury Board of Health.
- The plan for hydrocarbon removal from stormwater will come back to LUPC.

Christina Brown moved, and it was duly seconded, that the Commission approve the application as presented, including offers and conditions as presented.

John Best said he was disappointed that the applicant didn't make accommodations for energy efficiency, except for those items that were required by code.

Mimi Davisson said that with advanced wastewater reduction systems, the Commission usually includes performance expectations as a condition. She added that she would like more information included as to why 1.5 inches of runoff per storm is noted. **Bill Wilcox** said that 1.5 inches is approximately 40% of the volume of the two-year return storm. Because the wastewater system is located within the Zone of Contribution of a public supply well and the system planned for use is provisionally approved, the DEP requirements for testing and performance exceed those the MVC usually requires.

Megan Ottens-Sargent said she thought that specialty food stores would be allowed in the complex. **Christina Brown** said that the language was adjusted to reflect the traffic numbers rather than the specific business types.

Mimi Davisson asked whether the Commission has any legal authority to issue a cease and desist order if a DRI is being violated. **Christina Brown** said it is possible but it's cumbersome.

Carlene Condon asked whether the Commission has a model energy condition.

- **Linda Sibley** said it has adopted an energy policy, but this does not specify minimal energy standards.
- **Mark London** noted that this is a general policy that calls for the Commission to establish DRI energy guidelines.
- **John Best** said the applicant could offer to do a number of things to compensate for the fact that the proposed usage doesn't necessarily lend itself to energy efficiency.
- **Mimi Davisson** said that the time for this discussion was during the public hearing. **Linda Sibley** said it had been raised.
- **Megan Ottens-Sargent** suggested that staff and the applicant develop a condition addressing energy concerns.
- **Carlene Condon** suggested using the GOOD Company condition related to energy efficient building practices and fixtures.

Megan Ottens-Sargent moved, and it was duly seconded, that the applicant will come back to the Commission or LUPC addressing Commissioners energy concerns, particularly in terms of fixtures and appliances. A voice vote was taken: In favor 10. Opposed: 1. Abstentions: 0. The motion passed.

Christina Brown stated that LUPC, in reviewing the kinds of businesses that would not be allowed in the complex, did a comparison with other applications in the area, particularly in terms of traffic generation and traffic flow making left hand turns across State Road.

Megan Ottens-Sargent said in the public hearing they should have talked about deliveries by large trucks.

Christina Brown moved, and it was duly seconded, that the upper limit of nitrogen after treatment would be 19 parts per million. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

Mark London suggested that in the interest of time Commissioners could accept the benefits and detriments as similar to Woodland I and Commissioners would have the opportunity to review them in the final draft.

John Breckenridge suggested that this project would have an impact on affordable housing as opposed to Woodlands I.

Mimi Davisson suggested that if there were going to be more businesses on the Island, it is better that they are in the complex, rather than in separate developments.

John Breckenridge said a positive aspect is the addition of stormwater treatment.

A roll call vote was taken on the original motion to approval the proposal with the conditions as adopted. In favor: J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss. Opposed: None. Abstentions: None. The motion passed.

Linda Sibley thanked LUPC for working hard on the draft conditions.

The meeting adjourned at 8:00 p.m.

Linda B. Sibley
Chairman

Oct 19, 2006
Date

W. Means
Clerk-Treasurer

Oct 19, 2006
Date